BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

CHARLOTTE HILL) Claimant	
VS.	Docket No. 198,574
STERLING HOUSE OF SALINA	DOCKET NO. 190,314
Respondent) AND	
EMPLOYERS INSURANCE OF WAUSAU Insurance Carrier	
And)	
WORKERS COMPENSATION FUND	

ORDER

Claimant requests review of the Preliminary Hearing Order of Administrative Law Judge George R. Robertson entered in this proceeding on April 10, 1995.

Issues

Because the Administrative Law Judge was not impressed with claimant's testimony or that of her witnesses, the Judge denied benefits and found claimant did not prove she sustained personal injury by accident arising out of and in the course of her employment with the respondent. The claimant requested this review and contends the evidence is uncontradicted and overwhelming that she did sustain an accident as alleged.

The sole issue now before the Appeals Board is whether claimant sustained personal injury by accident arising out of and in the course of her employment with the respondent.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the entire record, for purposes of preliminary hearing the Appeals Board finds as follows:

The Appeals Board finds claimant sustained personal injury by accident arising out of and in the course of her employment with the respondent on January 15, 1995, when she slipped on ice in respondent's parking lot. At the time of the accident, claimant was

leaving respondent's nursing home facility to purchase milk, one of claimant's specific duties. Claimant immediately reported the incident to her co-workers and prepared an incident report. Because it was a Sunday, no management personnel were working that day. Claimant's testimony was supported by that of a married couple who visited the nursing home facility on the day of the accident and testified about the presence of patches of ice in the parking lot and their conversation with claimant about her work-related accident that had occurred earlier in the day.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Preliminary Hearing Order of Administrative Law Judge George R. Robertson entered in this proceeding on April 10, 1995 should be, and hereby is, reversed; that claimant did sustain personal injury by accident arising out of and in the course of her employment on January 15, 1995, and is entitled to benefits under the Kansas Workers Compensation Act. The case is hereby remanded to the Administrative Law Judge to enter an order for benefits consistent with the findings set forth herein. The Appeals Board does not retain jurisdiction over this matter.

IT IS SO ORDERED.
Dated this day of July, 1995.
BOARD MEMBER
BOARD MEMBER
BOARD MEMBER

c: John M. Ostrowski, Topeka, Kansas John W. Mize, Salina, Kansas George R. Robertson, Administrative Law Judge David A. Shufelt, Acting Director